

SERVICE DATE – AUGUST 1, 2008

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35160

OREGON INTERNATIONAL PORT OF COOS BAY—FEEDER LINE APPLICATION—
COOS BAY LINE OF THE CENTRAL OREGON & PACIFIC RAILROAD, INC.

Decided: July 31, 2008

On July 11, 2008, the Oregon International Port of Coos Bay (the Port) filed an application under the feeder line provision at 49 U.S.C. 10907 to acquire approximately 111.016 miles of Central Oregon & Pacific Railroad, Inc.'s (CORP's) Coos Bay Line between milepost 763.130, near Cordes, OR, and milepost 652.114, near Danebo, OR, including the Cordes, Hauser, Lakeside, Reedsport, Gardener Jct., Franz, Canary, Cushman, Mapleton, Swisshome, Richardson, Noti, Vaneta, and Danebo stations (the Line). The Port offers \$9,811,100 for the Line, its estimate of the Line's net liquidation value. The Port asserts that the Line has no going concern value.

Under 49 U.S.C. 10907(b)(1), the Board is authorized to require the sale of a rail line to a financially responsible person if the public convenience and necessity require or permit the sale. The Port contends that the proposed sale is required or permitted under the public convenience and necessity criteria, 49 U.S.C. 10907(c)(1)(A)-(E), and that it is a financially responsible person willing to pay not less than the constitutional minimum value of the Line.

Acceptance of the Port's Application

Under 49 CFR 1151.2(b), the Board, through the Director of the Office of Proceedings, must accept a complete application, or reject one that is incomplete, no later than 30 days after the application is filed. Notice of an acceptance must be published in the Federal Register. 49 CFR 1151.2(b)(1). An application is complete if it has been properly served and contains substantially all information required by section 1151.3, except as modified by advance waiver. Id. The notice also provides a procedural schedule for the proceeding. Id.

The Port's application contains sufficient information to be accepted for consideration. However, because the Port forecasts that the Line will require extensive rehabilitation and that rail service will incur substantial losses, the Port is encouraged to supplement the information it has provided thus far with regard to section 1151.3(a)(7), which addresses the proposed operator of the line; section 1151.3(a)(9), which addresses any preconditions that would be placed on shippers in order for them to receive service, including shipper subsidies; and section 1151.3(a)(10), which addresses the sources of other subsidies the applicant would receive. Any

such supplement must be filed by August 8 so that those responding to the application will have ample time to review the supplement.

Procedural Schedule

Under 49 CFR 1151.2(b)(1), if the Board accepts an initial feeder line application, it must also announce a procedural schedule for the proceeding. The procedural schedule is as follows:

- Competing applications by other parties seeking to acquire all or any portion of the Line sought in the initial application are due by August 8, 2008. 49 CFR 1151.2(c)(1).
- Any supplement by the Port to its application is due by August 8, 2008.
- The Board, through the Director of the Office of Proceedings, will issue a decision accepting or rejecting a competing application no later than August 22, 2008. 49 CFR 1151.2(c)(2).
- Verified statements and comments addressing both the initial and competing applications must be filed by August 29, 2008. 49 CFR 1151.2(e).
- Verified replies by applicants and other interested parties must be filed by September 12, 2008. 49 CFR 1151.2(f).

While the schedule described above is more compressed than the suggested schedule found in the Board's regulations, the Board has determined that it is in the interest of the public, the Port, and CORP to complete the feeder line proceeding in an expedited manner. Specifically, this procedural schedule is adopted based in part on the procedural schedule of CORP's pending abandonment application, which is being processed by the Board concurrently in a separate docket.¹

Lastly, on July 29, 2008, the Board served a decision in the CORP abandonment proceeding granting requests for a public hearing, which is being set for August 21, 2008 in Eugene, OR.² Because the Port is seeking to acquire a rail line that includes the line that CORP is seeking to abandon, and because both applications were filed at approximately the same time,

¹ On July 14, 2008, in Central Oregon & Pacific Railroad, Inc.—Abandonment and Discontinuance of Service—in Coos, Douglas, and Lane Counties, OR, STB Docket No. AB-515 (Sub-No. 2), CORP filed for authority, under 49 U.S.C. 10903, to abandon the Coos Bay Branch between milepost 669.0 near Vaughn, OR, and milepost 763.13 near Cordes, OR, and to discontinue service over the segments of the Coos Bay Subdivision that are leased by it, including: (1) the Coquille Branch between milepost 763.13 near Cordes, OR, and milepost 785.5 near Coquille, OR, which is leased from the Union Pacific Railroad Company; and (2) the LPN Branch between CORP milepost 738.8 and LPN Branch milepost 2.0, which is leased from Longview, Portland & Northern Railway Company. The Federal Register notice of CORP's abandonment application was published today.

² Central Oregon & Pacific Railroad, Inc.—Abandonment and Discontinuance of Service—in Coos, Douglas, and Lane Counties, OR, STB Docket No. AB-515 (Sub-No. 2) (STB served July 29, 2008).

the Port, CORP and other interested parties may address issues relevant to both proceedings at that hearing. Details about the public hearing, including how to participate, can be found in a separate decision being served today in this proceeding and in the CORP abandonment proceeding.

It is ordered:

1. The Port's feeder line application is accepted. Notice will be published in the Federal Register by August 8, 2008.

2. Competing feeder line applications by other parties seeking to acquire all or any portion of the Line are due by August 8, 2008.

3. Any supplement by the Port to its application is due by August 8, 2008.

4. Verified statements and comments addressing both the initial and competing applications must be filed by August 29, 2008.

5. Verified replies by applicants and other interested parties must be filed by September 12, 2008.

6. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary